

Message Text

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PAGE 01 BUENOS 08288 191930Z

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ACTION ARA-10

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E.O. 11652: N/A

TAGS: PINT, PINS, ASEC, AR

SUBJECT: DEFENSE LAW STALLED IN CONGRESS

REF: BA 6713

1. THE NEW DEFENSE LAW, DESIGNED TO GIVE THE ARMED FORCES A
FREER HAND IN COMBATING TERRORISM AND SUBVERSION, IS STALLED
IN THE SENATE. AFTER PASSING THE CHAMBER OF DEPUTIES LAST
MONTH, THE BILL HAS BEEN UNDER CONSIDERATION BY THE SENATE
DEFENSE AND CONSTITUTIONAL AFFAIRS COMMITTEES. THE MAIN
STUMBLING BLOCK TO RAPID PASSAGE APPEARS TO BE ARTICLE 35
WHICH PROVIDES FOR THE DEATH PENALTY IN "COMBAT ZONES" WHICH
ARE UNDER MILITARY JURISDICTION. OPPONENTS OF THE PROVISION,
MAINLY RADICALES, WANT ASSURANCES THAT "THE DEATH PENALTY WILL
NOT BE APPLIED INDISCRIMINATELY." TO ACHIEVE THIS THE RADICALES
HAVE PROPOSED AN AMENDMENT, ALREADY ENDORSED BY THEIR COUNTER-
PARTS IN THE CHAMBER OF DEPUTIES THAT WOULD SEPARATE THE CIVIL
JUDICIARY FROM MILITARY CONTROL AND SUBORDINATION IN THE COMBAT
ZONES.

2. AS A RESULT OF THIS DEBATE, PASSAGE OF THE BILL WILL PROBABLY
BE DELAYED BEYOND THE END OF THE YEAR. AT BEST IT COULD BE
APPROVED ONLY AFTER CONGRESS RETURNS FROM ITS RECESS ON
JANUARY 15.

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PAGE 02 BUENOS 08288 191930Z

3. IN A RELATED DEVELOPMENT THIRD ARMY CORPS COMMANDER LUCIANO MENENDEZ GAVE A PRESS CONFERENCE IN CORDOBA DECEMBER 17 IN WHICH HE STATED CATEGORICALLY THAT "THE DEATH PENALTY IS ALREADY IN FORCE AND IF THE CIRCUMSTANCES WARRANT IT, THIS COMMAND WILL APPLY IT." THE THIRD ARMY CORPS HAS RESPONSIBILITY FOR TEN PROVINCES INCLUDING TUCUMAN, PRESENTLY THE CENTER OF THE GUERRILLA FIGHTING. IN AN OBVIOUS REFERENCE TO THE CONGRESSIONAL DEBATE ON THE DEFENSE LAW, MENENDEZ WARNED THAT PRESENT EFFORTS DO NOT SEEK APPROVAL OF THE DEATH PENALTY BUT RATHER ITS REPEAL. "THE DEATH PENALTY WAS INSTALLED DURING THE FIRST PERON PRESIDENCY AND IN MY OPINION IT SHOULDN'T BE ABOLISHED BECAUSE CONDITIONS NOW ARE MUCH MORE DIFFICULT THAN WHEN CONGRESS SANCTIONED IT IN 1951."

4. COMMENT: MENENDEZ' PRESS CONFERENCE MAY HAVE BEEN A WELL-TIMED DISPLAY OF MILITARY ANNOYANCE AT THE SLOW PACE OF CONGRESSIONAL ACTION ON THE DEFENSE LAW. IN EFFECT, THE DEFENSE LAW WOULD GIVE LEGISLATIVE APPROVAL TO THE EXECUTIVE DECREES ISSUED IN OCTOBER (SEE REFTEL). THE DECREES ARE IN FORCE; THUS, CONGRESSIONAL RECALCITRANCE IS NOT HOLDING UP MILITARY OPERATIONS. IT HAS, HOWEVER, IRRITATED THE OFFICER CORPS, ESPECIALLY WITH THE RADICALES.

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